IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THE HON'BLE Mr. JUSTICE C.V.RAMULU

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WRIT PETITION No : 26560 OF 1998

Between:

R. Anil Kumar.

..... PETITIONER

AND

1. The Assistant Commissioner of Labour, Adoni, Kurnool District & 3 others..

….RESPONDENTS.

THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P.No.26560 OF 1998

ORDER:

This Writ Petition is filed seeking a writ of Certiorari calling for records relating to the proceeding in S.T.C.No.186 of 1997 on the file of Judicial Magistrate of First Class, Aluru and to quash the order dated 12.2.1998 in S.T.C.No.186 of 1997 as arbitrary and illegal.

When 4th respondent-workman was removed from service as Private Secretary of Chintakunta Large Sized Co-operative Credit Society Limited, Chintakunta Village, he filed Shops Appeal No.7 of 1995 under Section 48 of the Shops & Establishments Act, 1988. The authority under the Act after elaborate consideration of the matter passed orders on 7.12.1996 directing reinstatement of 4th respondent-workman into service with further direction to pay back wages which were quantified

at Rs.45,860/-. When the amount as directed to be paid as back wages in the appeal was not paid, the 4th respondent invoked the power of the authority under Section 50 of the Shops and Establishments Act. The authority in turn referred the matter to the Judicial Magistrate of First Class, Aluru, Kurnool Distict under Section 51 of the Act. The learned Judicial Magistrate took the matter on file and the same was registered as S.T.C.No.186 of 1997. By order dated 12.2.1998 the learned Magistrate directed the accused therein viz., Large Sized Co-operative Credit Society Limited, Chintakunta village, to deposit the award amount of Rs.45,860/- into Court within 30 days. Aggrieved by the said order, this Writ Petition has been filed.

The only point urged by the learned counsel for the petitioner is that as per Section 48(5) of the Shops and Establishments Act, application filed by the 4th respondent-workman ought to have been entertained by the respondents 1 and 2, but not by the 3rd respondent, as the provision under Section 48(5) of the Shops and Establishments Act does not permit entertaining such an application by the learned Magistrate.

For better appreciation the provision under section 48(5) as well as the provision under Section 50(4) of the Shops and Establishments Act is extracted hereunder:

"48(5) Any amount directed to be paid under this section may be recovered-

a. **if the authority appointed under sub-section (1) is a Magistrate, by the authority, as if it were a fine imposed by him as Magistrate; and**

b. **if the authority is not a Magistrate, by any Magistrate, to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate.**

.....

51(4) Any amount directed to be paid under this section may be recovered-

(a) if the authority appointed under sub-section (1) is a Magistrate, by the authority, as if it were a fine imposed by him as Magistrate; and

b. **if the authority is not a Magistrate, by any Magistrate, to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate."**

In the teeth of the provision under Section 48(5) read with Section 51(4) of the Act, the contention of the learned counsel for the petitioner that the 2nd respondent-authority himself is “a Magistrate” and the application could have been entertained by him and not by the 3rd respondent has no substance.

The Writ Petition is therefore devoid of any merit and is liable to be dismissed.

Now that the elected committee is not in office, the Person-in-Charge by name Mr. Ramanamurthy, who is present in the Court undertakes to implement the orders passed by the 3rd respondent within a period of 15 days from today.

The Writ Petition is accordingly disposed of. No costs.

4th August, 2005.

Kgr